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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,399	06/23/2003	Torsten Hagen	PO-7652/LcA 35689	5260
157	7590	01/30/2006	EXAMINER	
BAYER MATERIAL SCIENCE LLC 100 BAYER ROAD PITTSBURGH, PA 15205			SERGENT, RABON A	
			ART UNIT	PAPER NUMBER

1711

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/606,399
Filing Date: June 23, 2003
Appellant(s): HAGEN ET AL.

N. Denise Brown
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 7, 2005 appealing from the Office action mailed June 10, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

Appellants have cited a pending appeal in U.S. application serial number 10/672,440; however, a notice of allowance was mailed by the Office for this application on January 3, 2006.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1, 9-11, 19, and 20.

Claims 8, 18, and 21-24 are allowed.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9-11, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adkins et al. ('971).

Adkins et al. disclose the production of p-MDI wherein a reducing agent is added to the amine, resulting from the reaction of aniline and formaldehyde, at any time following the addition of the neutralizing agent and before the stripping of the solvent used for phosgenation, wherein the excess reducing agent is quenched with a quenching material, such as methanol. See column 1, lines 46+; column 2; and examples. Additionally, patentees disclose that hindered phenols may be used as the reducing agent; and it is noted that the hindered phenol reducing agent also meets appellants' alcohol component. Patentees disclose at column 1, lines 50-54 that an excess of neutralizing agent, such as sodium hydroxide, is used, and this disclosure is considered to meet appellants' claimed quantity of base. Patentees disclose that the amount of quenching material (i.e.; methanol) corresponds to the amount of reducing agent, and the amount of reducing agent disclosed is such that appellants' molar ratio of alcohol to formaldehyde is met or exceeded. See column 2, lines 14-20 and 28-30.

Patentees fail to specifically disclose that the methanol is added after neutralization (appellants' step (b)) and before phase separation of polyamine organic phase from the aqueous

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phase (appellants' step (c)); however, patentees do disclose that the reducing agent is added at any time after neutralization and before stripping of the solvent used for phosgenation; therefore, since the methanol quench is added after the reducing agent, it follows that the reference allows for addition of the methanol at any point after neutralization (appellants' step (b)) and addition of reducing agent, including prior to phase separation (appellants' step (c)). Accordingly, the position is taken that it would have been obvious to add the alcohol quenching material after neutralization and addition of the reducing agent yet prior to phase separation, since one would have expected that incorporation of the alcohol into the phase separated components would have decreased the effectiveness of the alcohol in the organic phase, due to its solubility in the aqueous phase. Appellants have not provided any showings demonstrating criticality attributable to when the alcohol is added.

The examiner has carefully considered appellants' arguments concerning Adkins et al.; however, it is not seen that the arguments are particularly relevant to the issues at hand. Appellants' response goes to great lengths to distinguish the reducing agents of the prior art from the alcohol component of the instant claims and stresses that color reduction would not have been expected absent patentees' reducing agent. However, these arguments are immaterial since appellants' claims do not exclude the argued reducing agent. Appellants' arguments concerning the sole use of the alcohol are not commensurate in scope with the claims. Additionally, appellants' discussion of the examples of Adkins et al. is not well taken, in that it is not seen that the examples are particularly relevant. Firstly, the examples utilize a reducing agent; therefore, they are immaterial in establishing the sole effect of an alcohol on color reduction. Secondly, since appellants' claims do not exclude the reducing agent, it is unclear how a discussion of

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examples that utilize such a reducing agent can further appellants' position. Furthermore, appellants' remarks concerning the differences between alcohol and phenol are not well taken. A phenol is an alcohol, and the phenol of the reference is adequate to meet the alcohol of claims 1, 9, 11, and 19. Lastly, appellants' arguments with respect to claims 10 and 20 are not well taken; the reference clearly discloses the methanol species of the claims as a preferred alcohol quenching agent. See column 2, line 28.

(10) Response to Argument


Appellants' arguments have been addressed in the **Grounds of Rejection**.

(11) Related Proceeding(s) Appendix

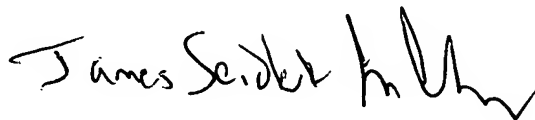
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


RABON SERGENT
PRIMARY EXAMINER

Conferees:


David W. [unclear]